



**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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Members
James Paul Geary
Orton A. Jones
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BOYD MAYLE, et al.

v.

DOCKET NO. 01-86-173-2

BARBOUR COUNTY BOARD OF EDUCATION

DECISION

This action is brought by twenty-nine individuals employed as bus operators by the Barbour County Board of Education on behalf of eleven employees affected by the alleged violations. The grievants assert that the eleven bus operators have been assigned extra runs for which they receive no compensation in violation of W. Va. Code, 18A-4-5b and that several of the grievants were involved in a scheduling change without their consent, a violation of W. Va. Code, 18A-4-8a. The grievants request that the additional runs which the eleven individuals are now performing be placed for bid and that they be compensated for the duty from 1985 to the present at the current rate paid for extracurricular runs.

The grievance was denied at levels one and two and the Barbour County Board of Education waived consideration to level four. This matter was submitted for a decision based upon

the record with oral arguments which were heard on December 1, 1986.¹

The four assignments in question involve the transportation of students to designated areas following the delivery of students transported during the drivers' regular morning run which ends at Philip Barbour High School.² Eight drivers are assigned to transport a student from Philip Barbour High School to Philippi Middle School. This assignment was originally made a part of Karen Conner's run; however, it is now rotated among Charles Newman, David Brown, Boyd Mayle, Kenneth Jones, Ira Mayle, Charles Farris, James Frazer and Ms. Connor.

Additionally, Elbert Annon transports kindergarten students from Philippi Elementary School to Alderson-Broadus College, Eugene Corley transports handicapped students from Kasson School to Philip Barbour High School and then to the Special Services Center at Belington Middle School and Mathew Gillis transports students from Philip Barbour High School to the Alternative

¹The record was provided to this examiner on December 1, 1986, but several pages were impossible to read due to poor photocopying. As certain information was not clear both parties were requested to submit proposed findings of fact and conclusion of law.

²All four runs also include a reverse p.m. run which returns these children to Philip Barbour High School and then home as part of the drivers' regular afternoon runs.

School in Tacy.³

The grievants allege these assignments are not a part of their regular duties but are "extra" runs similar to runs transporting students to the vocational school and to the senior center for which drivers receive additional compensation.

The board of education argues that these are four examples of runs with slight "extensions" and that none of the affected employees work in excess of the seven and one-half hour day for which they are compensated. The board further argues that the student involved in the assignment from Philip Barbour High School to Philippi Middle School was identified as being eligible for the special program after the school year began and that bus schedules must be amended whenever necessary to meet the needs of the students.

Findings of Facts

1. Following their regular morning run which requires that students be transported from their homes to Philip Barbour

³The run from Philippi Elementary School to Alderson-Broadus College was established in 1983, the run from Philip Barbour High School to the Alternative School in Tacy was effective in 1984, the run from Kasson School to Philip Barbour High School and on to the Special Services Center at Belington was instituted at the beginning of the 1985-1986 school term and the run from Philip Barbour High School to Philippi Middle School was established sometime after the beginning of the 1985-1986 term when the student was determined to be eligible for a special program conducted at the middle school.

High School, eight drivers are then responsible for the transportation of one student to Philippi Middle School. This assignment includes a return run in the afternoon and occurs daily. The eight drivers are assigned to this run on a rotating basis.

2. This rotating assignment was added to the grievants' schedule without their consent after the beginning of the school term and subsequent to a student being placed in a special program.

3. Three other drivers are also responsible for the transportation of students beyond Philip Barbour High School. These drivers perform the assignments both morning and afternoon on a daily basis.

4. None of the grievants receive additional compensation for the extended runs.

5. None of the grievants operate a bus in excess of four hours and fifty-five minutes per day.

6. All grievants have signed employment contracts which provide for daily employment of seven and one-half hours duration.

7. Other bus operators who transport students to the vocational school and to the senior center within the school day are granted extracurricular contracts and receive additional compensation.

8. Barbour County Board of Education Policy G-65 provides

that bus operators will be compensated for extracurricular trips, curricular trips outside the county, curricular trips that occur on a regular or scheduled basis and curricular trips that occur after the regular school day.

Conclusions of Law

1. "No service employee shall have his daily work schedule changed during the school year without his written consent, and his required daily work hours shall not be changed to prevent the payment of time and one-half wages or the employment of another employee. W. Va. Code, 18A-4-8a; Josephine Coburn v. Kanawha County Board of Education, Docket No. 20-86-087.

2. W. Va. Code, 18A-4-5b requires that uniformity shall apply to all salaries, rates of pay, benefits, increments or compensation for all persons regularly employed and performing like assignments and duties.

3. As the board of education has chosen to award additional compensation to drivers who transport students to the vocational-technical center and to the senior center, the grievants involved in these four additional runs must also be compensated in compliance with W. Va. Code, 18A-4-5b.

Accordingly, the grievance is GRANTED.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Barbour County and such appeal must be filed within thirty (30) days of receipt of this decision. (W. Va. Code, 18-29-7). Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

DATED: March 3, 1987

Sue Keller

SUE KELLER
Hearing Examiner